FAMILY LAW

Child Contact

Contact refers to maintaining a personal relationship with a child. It entitles a person to see, spend time with or communicate with a child who does not live with that person.

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For all your child contact answers, simply follow our guide below:

1. What is child contact?
2. How can a person obtain the right to contact a child?
3. What will the court consider when granting an order in respect of contact?
4. Can the custodian parent/s refuse contact after a court order in respect of such contact was obtained?
5. Does a parent have to pay maintenance if s/he is refused contact?
6. May a court order in respect of contact be changed or cancelled?
7. What if a dispute exists between the parents in respect of contact?
8. How can LegalWise assist you?

1. What is child contact?

- Contact refers to maintaining a personal relationship with a child. It entitles a person to see, spend time with (visit or be visited) or communicate (through post, by telephone or any form of electronic communication) with a child who does not live with that person.
- The child's parent/s or a person other than the child's parent/s (such as a grandparent) can obtain the right to contact a child, provided that the contact would serve in the child's best interests.

2. How can a person obtain the right to contact a child?

- Any person who has an interest in the care, well-being or development of a child, may apply for the right to contact such a child in the High Court, Divorce Court during divorce matters, or

Children’s Court.

- The right to contact can also be obtained by agreement with the custodian parent/s of the child.

3. What will the court consider when granting an order in respect of contact?

- The best interests of the child.
- The nature of the personal relationship between the child and his/her parent/s or the child and the person who applies for the right to contact.
- The degree of commitment the parent/s and/or other respective person have shown towards the child.
- The extent to which the parent/s and/or the respective person have contributed towards the expenses in connection with the birth and maintenance of the child.
- The likely effect on the child of any change in the child’s circumstances, including the effect of being separated from the parent/s, brothers/sisters or guardian/s with whom the child has been living.
- Any family violence involving the child or a family member of the child.
- The need to protect the child from any physical or psychological harm that may be caused by subjecting or exposing the child to maltreatment, abuse, neglect, degradation, violence or harmful behaviour.
- The child’s age, maturity, stage of development, gender, background and relevant characteristics of the child.
- Any disability that a child may have and any chronic illness from which a child may suffer from.

4. Can the custodian parent/s refuse contact after a court order in respect of such contact was obtained?

- ◦ It is a criminal offence:
- ◦ for the custodian parent/s to unreasonably refuse or prevent another person from having contact with the child if an order exists; or
  ◦ if the custodian parent/s do not advise the other person in writing of any change of his/her residential address.
- The aggrieved person may:

    - lay a complaint at the police, which is punishable with a fine or imprisonment for up to a year; or
    - apply to the Children's Court or High Court for committal of contempt of court.
- The aggrieved person must prove that the custodian parent/s acted wilfully and *mala fide* (in bad faith/intentionally misleading the other person).

5. Does a parent have to pay maintenance if s/he is refused contact?

Yes, it does not matter whether a parent has contact rights or not, s/he still has a legal duty to financially support the child.

6. May a court order in respect of contact be changed or cancelled?

- Yes, an application must be made at the Children's Court or High Court for the changing or cancellation of the court order (the Family Advocate must be informed of this application).
- The court must be satisfied that the changing or cancellation of the court order will be in the best interests of the child.

7. What if a dispute exists between the parents in respect of contact?

A dispute can be referred for mediation to a Family Advocate, social worker, or other suitably qualified person. A parent who is not satisfied with the outcome of the mediation may have that decision reviewed by the court.

8. How can LegalWise assist you?

Should you require an explanation of your rights on this topic, please contact your nearest LegalWise Branch , call, e-mail or WhatsApp us. For more information about our membership options visit our legal services page or visit our join now page.

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